



# House of Representatives

General Assembly

**File No. 51**

January Session, 2001

Substitute House Bill No. 6601

*House of Representatives, March 26, 2001*

The Committee on Planning and Development reported through REP. DAVIS of the 50th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT CONCERNING MODIFICATION OF ZONING PETITIONS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (c) of section 8-3 of the general statutes is  
2 repealed and the following is substituted in lieu thereof:

3 (c) All petitions requesting a change in the regulations or the  
4 boundaries of zoning districts shall be submitted in writing and in a  
5 form prescribed by the commission and shall be considered at a public  
6 hearing within the period of time permitted under section 8-7d. The  
7 commission shall adopt, modify and adopt, or deny the changes  
8 requested in such petition. Whenever such commission makes any  
9 change in a regulation or boundary it shall state upon its records the  
10 reason why such change is made. If the commission proposes to  
11 modify the changes to the regulations or boundaries, the commission  
12 shall conduct a public hearing on such modifications in accordance  
13 with the provisions of subsection (a) of this section. No such

14 commission shall be required to hear any petition or petitions relating  
15 to the same changes, or substantially the same changes, more than  
16 once in a period of twelve months.

17 Sec. 2. This act shall take effect from its passage and apply to  
18 petitions filed on and after said date.

***Statement of Legislative Commissioners:***

A comma was inserted after "modify and adopt" for clarity.

***PD***        ***JOINT FAVORABLE SUBST.***

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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**OFA Fiscal Note**

**State Impact:** None

**Affected Agencies:** None

**Municipal Impact:** Potential Minimal Cost

**Explanation****Municipal Impact:**

The bill requires zoning commissions to conduct an additional public hearing if they propose to modify and adopt a requested change to zoning regulations or boundaries. The bill's requirements, when implemented, are expected to be minimal. It is estimated that the annual cost to any municipality would be less than \$1,000.

An increase in cost would only result if a zoning commission chooses to modify requests. If they modify requests, the cost would be dependent on the number of additional public hearings held and the cost per hearing.

There are relatively few requests made each year. Typically, small towns experience less than five requests annually while larger municipalities may receive ten or more requests. Some portion of these requests might be modified, thereby generating additional hearings. It is estimated that about one-quarter of requests could be modified. The estimated number of additional hearings would

therefore be one - two per municipality, per year.

The cost per hearing is estimated to be less than \$500. This includes direct costs of about \$100 for legal advertisements and mailings and potential indirect costs of \$400 attributable to facility use and staff time.

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**OLR Bill Analysis****sHB 6601*****AN ACT CONCERNING MODIFICATION OF ZONING PETITIONS.*****SUMMARY:**

This bill allows a zoning commission to modify and approve requests to change a zoning regulation or a zoning district's boundaries. Current law specifies that they can adopt or deny the requested changes. The Superior Court has issued conflicting rulings as to whether the power to approve a request encompasses the power to modify it.

The bill requires commissions to hold a second public hearing on a request if they propose to modify it. They must advertise and conduct this hearing according to the same statutory requirements that governed the first. And they must render a decision on the modified request by the same statutory deadline for deciding unmodified requests.

EFFECTIVE DATE: October 1, 2001

**PUBLIC HEARING AND DECISION**

The bill requires commissions to hold a second hearing on a requested change if they propose to modify it. They must schedule and conduct this hearing and render a decision on the proposed modification within 65 days after they finished the hearing on the original, unmodified request. Commissions can extend this period for up to 65 days if the requestor agrees.

As with the first hearing, commissions must publish at least two newspaper notices advertising the time and place of the second hearing. The notices must appear at least two days apart, the first between 10 and 15 days before the hearing and the last not less than two before the hearing. Commissions can charge fees to cover this cost. They can also mail notices to people owning property abutting

the land affected by the modification.

Commissions must leave copies of the proposed modification for the public to inspect at specified municipal offices at least 10 days before the hearing. A majority of the commissioners or a specially formed five-member committee must conduct the hearing.

## **BACKGROUND**

### ***Related Cases***

The Superior Court has issued conflicting rulings on whether the CGS § 8-3(c) allows commissions to modify and approve a developer's request to change a zoning regulation or a zoning district's boundaries. The court initially ruled that the law "clearly and unambiguously grants a planning and zoning commission the authority to adopt or deny a petition requesting a zone change. It does not, however, grant the authority to *modify* a petition" (*Joseph Maccio v. Town of Southington Planning and Zoning Commission et al*, 10 Conn. L. RPTR. 6 (1993), emphasis in the original).

But in a subsequent case, the court rejected a plaintiff's claim that the statute limited the commission's power only to approve or deny the request. The court found "strong policy reasons for not giving CGS § 8-3(c) the restrictive meaning that Verderame [the plaintiff] claims." A commission acts as a legislative body when it decides zone change requests. These bodies "routinely amend proposals before them;" otherwise, they would be "compelled to accept imperfect proposals in imperfect form rather than correct or improve them" (*Verderame v. West Haven Planning and Zoning Commission*, 19 Conn. L. Rptr. 638 1997 Ct. Sup. 3389).

## **COMMITTEE ACTION**

Planning and Development Committee

Joint Favorable Substitute

Yea 17      Nay 0